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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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Roger R. Wise PILLSBURY WINTHROP LLP Suite 2800 725 South Figueroa Street Los Angeles, CA 90017				
			EXAMINER CHAMPAGNE, LUNA	
			ART UNIT 3627	PAPER NUMBER
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/802,511	<b>Applicant(s)</b> IRBY ET AL.	
	<b>Examiner</b> Luna Champagne	<b>Art Unit</b> 3627	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 02 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/2/04</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Objections*

Claim 3 is objected to because of the following informalities: It is stated that "the sales data is received in *aggregated* by a retailer's computer system" The sentence appears to be incomplete since it is unclear as to exactly what the adjective "aggregated" is describing. Appropriate correction is required.

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 7, 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. (7,120,596 B2), in view of Salvo et al. (6,341,271 B1).

Re claims 1 and 21, Hoffman et al. teach a method of a method of consigning at least one product between a consignor and a retailer/a computer-readable medium having encoded thereon a computer-readable program code which when executed causes a computer to/comprising: generating an inventory order for stocking levels of the least one consigned product in a retailer's distribution system (*see e.g. col. 25, lines 1-3*); shipping an inventory quantity of the at least one consigned product based on the inventory order to the retailer's distribution system (*see e.g. col. 24, lines 43-47- supply can be shipped where they are needed, on a daily basis if need be*); receiving sales

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data of the at least one consigned products from the retailer's distribution system (see e.g. col. 23, lines 5-14); replenishing the retailer's distribution system by shipping a replenishment inventory quantity of the at least one consigned products to the retailer's distribution system (see e.g. col. 24, lines 44-47); decrementing the virtual inventory in the consignor's computer system based on the sales data received from the retailer's distribution system (see e.g. col. 44, lines 16-29); generating an invoice based on the sales data and transmitting the invoice to a retailer (see e.g. col. 23, lines 1-2, lines 12-14); and creating an accounts receivable value owed by the retailer based on the sales data (see e.g. col. 54, table 5); creating an account receivable value owed by the retailer based on the sales data (see e.g. table 4).

Hoffman et al. do not explicitly teach a method of creating a virtual inventory in a consignor's computer system which matches the inventory quantity shipped to the retailer's distribution system and identifies an inventory location in the retailer's distribution system (*daily product movement reports*).

However, Salvo et al. teach a method of creating a virtual inventory in a consignor's computer system which matches the inventory quantity shipped to the retailer's distribution system and identifies an inventory location in the retailer's distribution system (see e.g. col. 10, lines 48-51).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to modify Hoffman et al. and include the step of creating a virtual inventory in a consignor's computer system which matches the inventory quantity shipped to the retailer's distribution system and identifies an inventory location in the

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retailer's distribution system, as taught by Salvo et al., in order to better monitor and facilitate distribution of goods.

Re claims 2-5, and 7, Hoffman et al. teach a method wherein receiving the sales data of the at least one consigned products from the retailer's distribution system occurs on a periodic basis (*see e.g. col. 22, lines 50-53*); wherein the sales data is received in aggregated by a retailer's computer system and then transmitted to the consignor's computer system (*see e.g. col. 39, lines 19-29*); wherein the sales data is received in real-time directly from a plurality of consignee retail sales locations (*see e.g. col. 17, lines 37-43*); wherein a consignor computer system aggregates the received real-time sales for a specified time period (*see e.g. col. 128, lines 45-50*); analyzing a consignment inventory request provided by the retailer utilizing at least one of a group of factors including inventory at a consignee's distribution center, inventory at the consignor's inventory location, advertising expected in a future timeframe, sales promotions expected during the future timeframe, and historical trends of sales of the at least one consigned product during same or similar time periods in the past (*see e.g. col. 25, lines 62-67; col. 26, lines 1-3*).

3. Claims 6 and 22, are rejected under 35 U.S.C. 103(a) as being unpatentable over Hoffman et al. (7,120,596 B2), in view of Salvo et al. (6,341,271 B1), and further in view of Official Notice.

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Re claims 6 and 22, Hoffman et al. do not explicitly teach a method/ a computer-readable program which when executed causes a computer to further including receiving a payment from the retailer and reducing the accounts receivable by the amount of a payment made the retailer.

However, the Examiner takes Official Notice that it is well known in the art to adjust an account receivable according to payments received.

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to include the steps of receiving a payment from the retailer and reducing the accounts receivable by the amount of a payment made the retailer, in order to balance the account.

4. Claims 8-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Salvo et al. (6,341,271 B1), in view of Hoffman et al. (7,120,596 B2).

Re claim 8, Salvo et al. teach an inventory module to receive the verified consignment request from the analysis module, to create an initial consignment order *see e.g. col. 5, lines 31-34*); and to transmit the initial consignment order to a consignor inventory location in order for the consignor inventory location to ship consigned products listed on the initial consignment order to a consignee distribution system (*see e.g. col. 7, lines 39-42*); Salvo ---and a virtual inventory module coupled to the inventory module to create a record to identify an inventory quantity of consigned products and an inventory location of the consigned products shipped to the consignee distribution system (*see e.g. col. 10, lines 48-51*).

Salvo et al. do not explicitly teach a consignor or supplier computing system, comprising: an analysis module to receive a consignment inventory request, to analyze the consignment inventory request, and to create a verified consignment request.

However, Hoffman et al. teach a consignor or supplier computing system, comprising: an analysis module to receive a consignment inventory request, to analyze the consignment inventory request, and to create a verified consignment request (see *e.g. col. 12, lines 38-46*).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to modify Salvo et al., and include steps comprising of an analysis module to receive a consignment inventory request, analyze the consignment inventory request, and to create a verified consignment request, as taught by Hoffman et al., in order to enhance operations by providing managers tools that help free their time to focus on the customers.

Re claim 9, Salvo et al. do not explicitly teach a consignor or supplier computing system, further including a financial module to receive sales information from the consignment distribution system, to generate an invoice based on the received sales information, to transmit the invoice to a consignee computer system based on the received sales information, to generate a virtual inventory decrement request based on the sales data, and to transmit the virtual inventory decrement request to the virtual inventory module.

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However, Hoffman et al. teach a consignor or supplier computing system, further including a financial module to receive sales information from the consignment distribution system (*see e.g. col. 22, lines 50-53*), to generate an invoice based on the received sales information, to transmit the invoice to a consignee computer system based on the received sales information (*see e.g. col. 23, lines 1-2, and 12-14*), to generate a virtual inventory decrement request based on the sales data, and to transmit the virtual inventory decrement request to the virtual inventory module (*see e.g. col. 44, lines 16-29*).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to modify Salvo et al., and include the steps cited above, as taught by Hoffman et al., in order to enhance operations by providing time saving tools to managers.

Re claims 10 and 12, Salvo et al. do not explicitly teach a consignor or supplier computer system wherein the analysis module receives the sales information, evaluates the sales information along with at least one factor of a group of factors including inventory at a consignee's distribution center, inventory at the consignor's inventory location, advertising expected in a future timeframe, sales promotions expected during the future timeframe, and historical trends of sales of the at least one consigned product during same or similar time periods in the past; a consignor or supplier computer system, wherein the evaluation of the sales information along with the at least



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one factor of the group of factors is performed by an operator of the consignor or supplier computer system.

Hoffman et al. teach a consignor or supplier computer system wherein the analysis module receives the sales information, evaluates the sales information along with at least one factor of a group of factors including inventory at a consignee's distribution center, inventory at the consignor's inventory location, advertising expected in a future timeframe, sales promotions expected during the future timeframe, and historical trends of sales of the at least one consigned product during same or similar time periods in the past (*see e.g. col. 25, lines 62-67; col. 26, lines 1-3*); a consignor or supplier computer system, wherein the evaluation of the sales information along with the at least one factor of the group of factors is performed by an operator of the consignor or supplier computer system (*see e.g. col. 25, lines 65-67, col. 26, line 1*).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to modify Salvo et al., and include the steps cited above, as taught by Hoffman et al., in order to provide a better planning/forecasting tool that will save time and increase profit.

Re claim 11, Salvo et al. teach a consignor or supplier computer system wherein the evaluation of the sales information along with the at least one factor of the group of factors is performed automatically by the analysis module of the consignor system (*see e.g. col. 6, lines 47-54*).

Re claims 13 and 20, Salvo et al. teach a consignment system for consigning products from a supplier to a retailer/ a computer-readable medium having encoded thereon a computer-readable program code which when executed causes a computer to:/ the system comprising; a supplier computing system (see e.g. col. 4, lines 3-11); a supplier inventory location to house consigned products (see e.g. col. 4, lines 62-67 – *warehouse*); and a retailer computer system to generate an initial consignment request identifying a quantity of consignment products to be shipped from the supplier inventory location (see e.g. col. 5, lines 1-10); and identifying a proposed retailer inventory location at which the consignment products are to be stocked, and to transmit the initial consignment request; wherein the supplier computer system receives the initial consignment request from a communications network after the retailer computer system has transmitted the initial consignment request to the communications network, analyzes the consignment order to generate an initial consignment order identifying a shipped quantity of the consigned products to be shipped to a retailer distribution system, transmits the initial consignment order to the supplier inventory location (see e.g. col. 3, lines 8-22).

Salvo et al. do not explicitly teach a system that creates a virtual inventory of consigned products in the supplier computing system that identifies a stocked quantity of consigned products located at each location in the retailer distribution system, and wherein the supplier inventory location ships the consigned products to the retailer distribution system.

However, Hoffman et al. teach a system that creates a virtual inventory of consigned products in the supplier computing system that identifies a stocked quantity of consigned products located at each location in the retailer distribution system, and wherein the supplier inventory location ships the consigned products to the retailer distribution system (see *e.g. col.23, lines 5-14*).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to modify Salvo et al. and include the steps of creating a virtual inventory of consigned products in the supplier computing system that identifies a stocked quantity of consigned products located at each location in the retailer distribution system, and wherein the supplier inventory location ships the consigned products to the retailer distribution system, as taught by Hoffman et al., in order to organize, monitor the flow of inventory in the system.

Re claim 14, Salvo et al. do not explicitly teach a consignment system wherein the retailer distribution system receives the shipped quantity of the consigned products, maintains some of the shipped quantity of consigned products in a retailer distribution center based on the initial consignment order's instructions on how many consigned products are to be maintained at the retailer distribution center, and ships out a remainder of the shipped quantity of consigned products to a plurality of retailer sales locations.

However, Hoffman et al. teach a consignment system wherein the retailer distribution system receives the shipped quantity of the consigned products, maintains

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some of the shipped quantity of consigned products in a retailer distribution center based on the initial consignment order's instructions on how many consigned products are to be maintained at the retailer distribution center, and ships out a remainder of the shipped quantity of consigned products to a plurality of retailer sales locations (see e.g. *col. 51, lines 51-67, col. 52, lines 1-5*).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to modify Salvo et al., and include the steps cited above, as taught by Hoffman et al., in order to balance the distribution of goods and optimize inventory throughout the system.

Re claims 15 and 16, Salvo et al. do not explicitly teach a consignment system wherein the retailer sales locations transmit sales data at a specified timeframe through the communications network to the supplier computing system and the supplier computing system aggregates the sales data for a monitoring timeframe wherein the specified timeframe is real-time or as a short timeframe after a sale of the consigned products takes place.

However, Hoffman et al. teach a consignment system wherein the retailer sales locations transmit sales data at a specified timeframe through the communications network to the supplier computing system (see e.g. *col. 22, lines 50-53*); and the supplier computing system aggregates the sales data for a monitoring timeframe (see e.g. *col. 39, lines 19-29*); wherein the specified timeframe is real-time or as a short

timeframe after a sale of the consigned products takes place (*see e.g. col. 22, lines 53-55*).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to modify Salvo et al., and include the steps wherein the retailer sales locations transmit sales data at a specified timeframe through the communications network to the supplier computing system and the supplier computing system aggregates the sales data for a monitoring timeframe wherein the specified timeframe is real-time or as a short timeframe after a sale of the consigned products takes place, as taught by Hoffman et al., in order to predict behavior/monitor inventory and improve planning.

Re claims 17 and 18, Salvo et al. teach a system wherein the supplier computer system receives the sales out data, analyzes the sales data for the monitoring timeframe to determine a replenishment quantity of consigned products and a corresponding stocking location of the replenishment quantity of consigned products (*see e.g. col. 8, lines 26-33*).

Salvo et al. do not explicitly teach a system that creates a replenishment order identifying the replenishment quantity of consigned products to be shipped to the retailer distribution system and the corresponding stocking location for the consigned products, and transmits the replenishment order to the supplier inventory location; further including the supplier inventory location receiving the replenishment order and shipping out the replenishment quantity of consigned products to the retailer distribution system.

However, Hoffman et al. teach a system that creates a replenishment order identifying the replenishment quantity of consigned products to be shipped to the retailer distribution system and the corresponding stocking location for the consigned products, and transmits the replenishment order to the supplier inventory location; further including the supplier inventory location receiving the replenishment order and shipping out the replenishment quantity of consigned products to the retailer distribution system (*see e.g. col. 53, lines 54-63*).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to modify Salvo et al., and include the steps of creating a replenishment order identifying the replenishment quantity of consigned products to be shipped to the retailer distribution system and the corresponding stocking location for the consigned products, and transmits the replenishment order to the supplier inventory location, and further including the supplier inventory location receiving the replenishment order and shipping out the replenishment quantity of consigned products to the retailer distribution system as taught by Hoffman et al., in order to organize, monitor the flow of inventory in the system.

Re claim 19, Salvo et al., do not explicitly teach a consignment system, wherein the plurality of retail sales locations transmits sales information to the retailer computer system at a specified timeframe, the retailer computer system receives the sales information from the plurality of retail sales locations and aggregates the sales

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information from the plurality of retail sales location, and the retailer computer system transmits the aggregated sales information to the consignor computer system.

However, Hoffman et al. teach a consignment system, wherein the plurality of retail sales locations transmits sales information to the retailer computer system at a specified timeframe, the retailer computer system receives the sales information from the plurality of retail sales locations and aggregates the sales information from the plurality of retail sales location, and the retailer computer system transmits the aggregated sales information to the consignor computer system (*see e.g. col. 23, lines 3-14*).

Therefore, it would have been obvious to a person of ordinary skill in the art, at the time of the invention, to modify Salvo et al., and include the steps wherein the plurality of retail sales locations transmits sales information to the retailer computer system at a specified timeframe, the retailer computer system receives the sales information from the plurality of retail sales locations and aggregates the sales information from the plurality of retail sales location, and the retailer computer system transmits the aggregated sales information to the consignor computer system, as taught by Hoffman et al., in order to keep track of sales information and better forecast demand and future sales.

### **Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Menninger et al. (7,171,379 B2), Peterson et al. (6,324,522 B2).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luna Champagne whose telephone number is (571) 272-7177. The examiner can normally be reached on Monday - Friday 8:30 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Florian Zeender can be reached on (571) 272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

10/10/07

Luna Champagne  
Examiner  
Art Unit 3627

  
F. RYAN ZEENDER  
PRIMARY EXAMINER